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May 18, 1998

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FEDERAL COMMUNICATIONS COMMISSION
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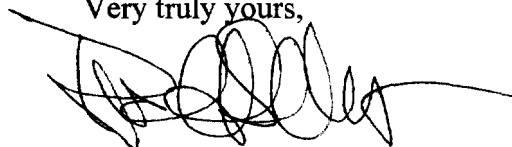
Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: Comments in WT Docket No. 98-20 File No. RM-9060
Biennial Regulatory Review -- Amendment of Parts 0, 1, 13,
22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's
Rules to Facilitate the Development and Use of the Universal
Licensing System in the Wireless Telecommunications Services

Dear Ms. Salas:

Transmitted herewith are an original and four (4) copies of the Comments of Myers Keller Communications Law Group in the above captioned proceeding. Please date stamp the enclosed file copy and return it with the courier. If you have any questions regarding this matter, please telephone me at (202) 371-0789.

Very truly yours,



Richard S. Myers

Attachments

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
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Facilitate the Development and)
Use of the Universal Licensing)
System in the Wireless)
Telecommunications Services)

To: The Commission

COMMENTS OF MYERS KELLER COMMUNICATIONS LAW GROUP

Myers Keller Communications Law Group ("MKCLG") respectfully submits the following comments concerning the Commission's Notice of Proposed Rulemaking ("NPRM"), released on April 7, 1998, in the captioned proceeding.

1. Introduction. MKCLG, a communications law firm located in Washington, D.C., prepares and files licensing applications in the Wireless Telecommunications Services on behalf of its clients. MKCLG applauds the Commission's efforts in streamlining the current licensing system to relieve the regulatory burden on filers and increase access to information by the public. In implementing the Universal Licensing System ("ULS") and amending the Commission's Rules to facilitate such a system, MKCLG suggests that the Commission address three areas of concern: (1) manual filing; (2) per minute charges for accessing application and license

information; and (3) the Commission's Rules concerning submission of full-size maps with applications in the Public Mobile Services.

2. Manual Filing. In the NPRM, the Commission proposes to mandate electronic filing of applications for all wireless radio services beginning January 1, 1999.¹ Further, the Commission is implementing ULS in phases throughout 1998 to work out flaws in the system and to gradually familiarize filers with the system.

3. MKCLG suggests that the Commission adopt an interim period of optional manual filing or a policy of granting waivers of the electronic filing rules to accommodate technical difficulties following the effective date of any electronic filing mandate. MKCLG is concerned that, when ULS is fully implemented and the proposed electronic filing mandate begins, unforeseen problems will occur with ULS or the filer's equipment, resulting in untimely filed applications that otherwise would have been timely filed manually.

4. For example, although the data storage capability of ULS is vast, whether the phone bank system is sufficient to handle all the necessary PPP dialer access for batch filing and interactive work on applications is unknown. The phone bank system will not be fully tested until ULS is fully implemented and has been operating for a significant period of time. Further, filers may not discover the inadequacies of their own equipment until several applications

¹ NPRM at ¶ 21.

have been electronically filed. As the Commission is aware, applications and pleadings are typically filed at or near the deadline. Thus, problems with the ULS system may not be discovered until it is too late to do anything about it. An interim period of optional manual filing or flexible waiver policy of limited duration will permit filers to discover and eliminate any unforeseen problems and make them more receptive to using the system.

5. Per Minute Access Charges. The Commission proposes in the NPRM to charge users \$2.30 a minute for accessing license and application information on-line.² The Commission states that these charges will be limited to the amount necessary "to recover the Commission's costs of maintaining ULS, including the cost of protecting the security of the system from outside tampering."³ Further, the Commission states that these charges will possibly be reduced as costs can be spread among a larger number of users when ULS is fully operational.

6. MKCLG recommends that the Commission not assess any charges for on-line access to license and application information. Charges will deter public participation in licensing proceedings, contrary to the purpose of ULS. Interested persons will forgo on-

² NPRM at n.5. The Commission currently has a prototype of the search module available on its web site to familiarize users with the system at no charge (<http://uls-gis.fcc.gov>).

³ NPRM at ¶ 5.

line searches for pertinent information to avoid the added cost, especially when the access fees exceed fees charged by ITS.⁴

7. ULS supposedly will increase the efficient allocation of agency resources for storing and handling licensing information. Therefore, the administrative costs of the current system, which are covered by application and regulatory fees, will be reduced. If the Commission elects to assess charges, then it needs to perform and disclose an analysis comparing the added cost of maintaining ULS to the elimination of maintenance costs under the current system. If the costs of maintaining the Commission's licensing system are not greater under ULS, then the application and regulatory fees already assessed are sufficient to cover the costs. Under these circumstances, the Commission would not be justified in charging the public fees for on-line searches.

8. Submission of Full-Size Maps. Currently, the Commission's Rules require applicants in the Public Mobile Services to submit full-size maps that are 1:500,000 scale when requesting, among other things, approval for minor or major modifications to existing systems.⁵ In the NPRM, the Commission proposed to

⁴ ITS only charges \$12.00 an hour for research time plus \$.05 a page for copy expense for regular service. A member of the public spending an hour to find and download a 40 page document on ULS will incur access charges totaling \$138.00, while having ITS spend two hours to find and copy the same document will currently cost \$26.00 (2 hr x \$12.00 plus 40 pages x \$.05).

⁵ 47 C.F.R. §§ 22.163(e) (minor modifications to existing systems), 22.165(e) (adding transmitters to existing stations), 22.929(c) (application requirements for the Cellular

eliminate Sections 22.163 and 22.953 that require the submission of full-sized maps and amended Sections 22.165(b) & (e), 22.929(a)-(b), and 22.947(b).⁶ However, in the proposed amendments to Sections 22.165, 22.929 and 22.947, the Commission did not eliminate the requirement for full-sized maps in accordance with Section 22.953(a)(5)(i)-(iii). Therefore, it is unclear whether maps submitted to the Commission under these provisions will still need to be full-sized in 1:500,000 scale.

9. MKCLG suggests that the Commission clarify that maps filed electronically with applications need not be 1:500,000 scale. The purpose for requiring maps of a certain scale was so that the Commission's staff and the public could clearly identify the proposed contours of the system and the market boundaries in relation to roads and county boundaries. However, requiring a scale for maps that will be scanned into graphical files and submitted to the Commission is illogical.⁷ As long as the scanned map file is sufficiently legible and depicts the system's contours and boundaries, then the public and staff can enlarge or reduce the graphic with their own viewing software to identify geographic

Radiotelephone Service), 22.947(c) (System Information Updates), 22.953(a)(5)(1) (content of applications).

⁶ See NPRM, Appendix B.

⁷ While the Commission states that ULS will permit the electronic filing of data required to create maps of proposed and existing service areas, some filers will prefer to create their own maps for submission. NPRM at n.3.

details regardless of what scale the map is. Further, requiring a 1:500,000 scale would necessitate the purchase of large scanners to handle maps of this size, because scanners typically found in offices can only handle documents that are legal size or smaller.⁸ Such an increase in cost to filers runs counter to the purpose of ULS. Finally, eliminating the current scale requirement will increase regulatory parity with other wireless services.⁹

10. Conclusion. MKCLG applauds the Commission's efforts in creating a licensing system that will lessen the regulatory burden on filers and increase access to information by the public. However, in streamlining the licensing process, the Commission should allow for manual filing for an interim period or provide a flexible waiver policy for unforeseen technical difficulties after the proposed electronic filing mandate takes effect. The Commission should not assess per minute charges for on-line

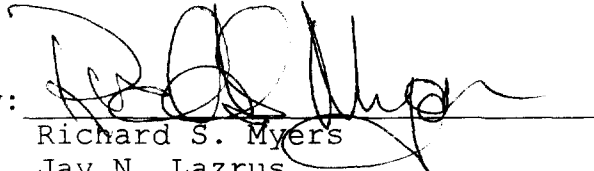
⁸ Full-sized maps on 1:500,000 scale obtained from the United States Geographic Service depicting a system's contours are almost always larger than a legal-sized document.

⁹ See 47 C.F.R. §§ 24.103(f), 26.104(c), 90.767(c), 90.769(c).

searches by the public, and it should dispense with the full-sized map 1:500,000 scale requirement in the Public Mobile Services.

Respectfully submitted,

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